

### **Remark**

Applicants respectfully request reconsideration of this application as amended. No claims have been amended. Claims 1-30 have been canceled. Therefore, claims 31-64 are now presented for examination.

### **35 U.S.C. §102 Rejection**

#### *Hertz '257*

The Examiner has rejected Claims 49, 51 and 54-57 under 35 U.S.C. §102(e) as being anticipated by Hertz, U.S. Patent No. 5,758,257 ("Hertz '257").

The Examiner cites three different sections of Herz '257. Col. 49, lines 23-30 describes "personalized ID cards which store their profiles." Col. 26, lines 34-37 describes that "a particular profile of that customer may be selected." Col. 48, lines 5-10, describes clustering users based on common characteristics.

However, Claim 49, for example, recites, "sending a form of identification from a viewer at an entertainment system to a programming guide server" and "receiving access to a viewer characteristic file ... provided from a different entertainment system."

Applicants are unable to find any teaching or suggestion in Herz '257 that a viewer characteristic file is provided from a different entertainment system. Instead, Herz stores the whole profile on a portable card. This may allow for similar results, but it requires that the viewer carry the card with him and it requires a card reader that can read the profile data. In the described embodiment, the card reader must also be able to update the data on the card based on the viewer's remote usage.

The present invention provides an approach that is easier for the user, but requires a level of connectivity between the server and the different entertainment systems.

### **35 U.S.C. §103 Rejection**

*Herz '257 with Herz '195*

The Examiner has rejected Claims 31-48, 50, 52-53 and 58-64 under 35 U.S.C. §103(a) as obvious over Herz '257 in view of Herz, U.S. Patent No. 6,029,195 ("Herz '195").

The Examiner in addition to the citations made in the anticipation rejection refers to Herz '257, Col. 49, lines 23-30 which refer to the same personalized ID card that stores the profile. The Examiner adds Herz '195 as purportedly showing that user U can masquerade as user V. Unfortunately, the Examiner has provided no specific citation to any of the 98 columns of text in the reference.

Applicants have performed a word search for forms of "masquerade" in the reference in an effort to respond to the Examiner in this rejection and have found the following starting at Col. 74, line 50:

"As a novelty feature, the user U can "masquerade" as another user V, such as a prominent intellectual or a celebrity supermodel; as long as user U is masquerading as user V, the filtering technology will recommend articles not according to user U's preferences, but rather according to user V's preferences. Provided that user U has access to the user-specific data of user V, for example because user V has leased these data to user U for a financial consideration, then user U can masquerade as user V by instructing user U's proxy server S to temporarily substitute user V's user profile and target profile interest summary for user U's. In a variation, user U has access to an average user profile and an composite target profile interest summary for a group G of users; by instructing proxy server S to substitute these for user U's user-specific data, user U can masquerade as a typical member of group G, as is useful in exploring group preferences for sociological, political, or market research. More generally, user U may "partially masquerade" as another user V or group G, by instructing proxy server S to temporarily replace user U's user-specific data with a weighted average of user U's user-specific data and the user-specific data for user V and group G."

However, Claim 31, for example, recites, "providing access to the viewer characteristic file [received from a viewer's entertainment system] remotely from the programming guide server at a different entertainment system."

Herz '195 provides access to a different user's preferences through a proxy server. In the claim, the user has access to his own profile at a different location. The Examiner suggests that it would be obvious to adapt the masquerading idea to Herz's personalized ID card to arrive at the claimed remote access.

First, Applicants submit that the accessed viewer characteristic file originates from the viewer's own entertainment system.

Second, there is a significant difference between "masquerading" as someone else and obtaining one's own profile at another location. The fundamental intention and purpose are completely different.

Third, there is a significant technical difference between obtaining another's profile that is for sale for fee at home as compared to obtaining one's own profile at a different location. The masquerading approach is tantamount to celebrity recommendations. The information in the celebrity profile is publicly available for a fee and is therefore very different from the profile that Herz '257 stored in the portable ID card. In order to protect the celebrity profile, there can be some consideration to collecting the fee, but the information is not private, personal information. No one would sell this information if they intended for it to be private. The Herz '257 profile on the other hand is very different information the privacy of which must be maintained by the system. As explained in Herz '257, it includes not only personal demographics, and viewing histories, both of which may be sensitive, but can also include address, billing and other sensitive information. Accordingly it is not obvious to use the Herz '195 system for Herz '257 data.

Fourth, these two references are from different fields. While they may share an inventor and an agreement matrix. Herz '195 applies these profile, agreement matrix

ideas to a completely different field. In the world of Herz '195, there is no entertainment system, no programming guide, and no viewing preferences. Instead there are client processors, pseudonyms, agency and validation servers, proxy servers, and network vendors. It would not be obvious to look at this world for ideas to apply to the field of the present invention.

Fifth, Claim 31, recites, "providing access to the viewer characteristic file remotely from the programming guide server." There is no indication in either reference that a programming guide server exists. Herz '195 has no such thing and Herz '257 leaves it to the multimedia terminal 914 to create and assemble the guide.

Claim 36 further recites that the viewer characteristic file includes information about the viewer's entertainment system. There is no such feature in either reference.

The other claims include additional distinguishing features and are allowable therefore as well as for the reasons provided specifically above.

### **Conclusion**

Applicants respectfully submit that the rejections have been overcome by the amendment and remark, and that the claims as amended are now in condition for allowance. Accordingly, Applicants respectfully request the rejections be withdrawn and the claims as amended be allowed.

### **Invitation for a Telephone Interview**

The Examiner is requested to call the undersigned at (303) 740-1980 if there remains any issue with allowance of the case.

**Request for an Extension of Time**

Applicants respectfully petition for an extension of time to respond to the outstanding Office Action pursuant to 37 C.F.R. § 1.136(a) should one be necessary. Please charge our Deposit Account No. 02-2666 to cover the necessary fee under 37 C.F.R. § 1.17(a) for such an extension.

**Charge our Deposit Account**

Please charge any shortage to our Deposit Account No. 02-2666.

Respectfully submitted,  
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